

COUNTY COMMISSION MEETING – April 20, 2010

Consent Agenda: Land Use Authority Mtg. Items – March 23rd, 2010

CONDITIONAL USE PERMIT Request permission to operate a 24 hour therapeutic boarding school “Brookhaven” (Country Living) for young men between the ages of 13 & 17 at Brookside. Michael C. Armstrong, applicant.

The Planner informed the commission that the applicant would like to establish a 24 hour supervised boarding school, with professional staff, within the RE-40.0 zone in Brookside. There is a total of 4 acres consisting of two (2) parcels, one platted within the Pine Valley Mtn. Farms Subdivision and the other as a metes & bounds parcel. They wanted to start with 15 youth, but the septic capacity will only allow for 11 youth and staff. If the septic system is upgraded, then they would want the option to expand. This will be reviewed conditionally as a school; residential facilities for persons with a disability are a permitted use within the RE-40.0 zone. She recommended they also checkout the boarding house definition in the County Code, saying all of this information should be helpful in making your decision.

Commissioner Everett said according to his understanding of the definition of “boarding house” in the county code you cannot have a therapeutic boarding house. He went on to read the following from the County Code (10-4-1):

A "boarding house" does not include a residential facility for disabled persons or a residential facility for the elderly. A boarding house does not include a nonresidential facility such as a rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling, medical, protective or other similar services to the occupants.

The Planner said the applicant will have to let you know what he is applying for. She explained she included the boarding house definition because that is where she could see the fifteen residents being acceptable. She added, anywhere else the applicant would have to meet the residential numbers as to family members, which is five (5) unrelated people. She noted that 10-4-1 in the County Code also has a definition for Rehabilitation Treatment Facility and it indicates the state licensing that is needed.

Mike Armstrong, applicant, clarified that it is a residential treatment facility and the initial setup he applied for was fifteen (15) children without having to do any type of addition, but under state licensing they have to follow all of their codes and guidelines, therefore, they must take all of that into consideration before they will be able to have any kids in the facility. Mr. Armstrong said he would like to help youth on a smaller scale. The program is designed to have each child for ten (10) months to a year. He would like his facility to represent grandpa’s farm, using a farm atmosphere to give the youth an opportunity to develop through basic living, while having an opportunity to obtain an education. He explained that education will be provided. The applicant will be working to get accredited and when they are they will be an actual school under the Northwest Association of Accreditation, but until that time the schooling will be sent out. He

explained that they will actually send their papers out to other schools until they have their accreditation. Mr. Armstrong said they will have Dave Macbeth as their clinical director and Mr. Armstrong will be the executive director and they will both be on site until needs be. He informed the commission that their policies and procedures are being developed and about ready to turn into the state and then Kelly Anderson, of licensing, would make sure they have checked with the fire codes, had health inspections and all the other necessary things. He said for now their numbers will stay down until they can expand to an additional fifteen (15) kids and they will then add another septic system.

Commissioner Everett clarified that they are asking to be allowed under the rehabilitation treatment facility, not the boarding house definition. He read the following from the County Code:

REHABILITATION/ TREATMENT FACILITY: A facility licensed by or contracted by the state of Utah to provide temporary occupancy and supervision of individuals (adults/juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse or mental health. Associated educational services may also be provided to juvenile occupants.

Commissioner Wilson asked staff where rehabilitation treatment facility was listed as a permitted use or a conditional use.

The Planner said they would have to review the conditional use permit section. Under the RE zone it would have to be reviewed as a school or a use similar to the conditional uses listed in that district.

Chairman Stucki included it is not specifically listed and referred the commission to the code, which says, "Any use similar to the above and judged by the planning commission to be in harmony with the character and intent of this zone."

Commissioner Balen asked the applicant if the neighbors had been advised of this project.

Mr. Armstrong said the neighbors do not know exactly what they are going to do. He said he has met with some of the neighbors, but he has not given them any detail because he was waiting to meet with this commission.

Commissioner Balen asked the planner what the procedure was for this conditional use permit and if the neighbors had to be notified.

The Planner informed them that there is no notification required under the ordinance, but they have asked the applicant to let the neighbors know as a good neighbor.

Commissioner Balen asked the applicant what category of behavior these kids will be.

David Macbeth, clinical director, explained that they are looking at average troubled teenagers. He said they are not looking for kids who are violent, have any psychiatric disorders, mental illness, or any type of criminal background. He said they are looking for kids who are oppositional defiant, who have parent child relationship problems, adjustments to living problems, who just haven't been able to find their niche in society, so they can get along cooperatively with society. He said they are not looking for hard core kids; they are not going to run a lock down facility. Mr. Macbeth anticipates the kids in this program will be cooperative, responsible, and they will be able to control their behavior with talk therapy and structure. He thinks the facility will be an enhancement to the area. They are going to teach the kids the value of service, work and being a cooperative member of society. He added that they want to have the kids paint fences and anything they can to let the neighbors know they are trying to help the kids know how they can fit in to the community and serve the community. His experience has been that once the neighbors find out what they are offering and have the opportunity to participate, they become very supportive.

In response to the commission, Mr. Armstrong said it is a twenty four (24) hour supervised facility, meaning someone on the staff is awake twenty four hours a day. The kids won't be able to come and go at will. The ratio of staff to youth is one to four. He explained this facility is not for addicts; however, there are very few youth with behavior issues who do not have some type of substance abuse issue.

Mr. Macbeth said they are not a drug and alcohol facility and they do not want to present those types of kids to the community.

The commission asked if the kids will be going to local schools. Mr. Armstrong replied they would not.

The commission asked about first aid and Mr. Armstrong said as a part of the policies and procedures everyone who works there has to be trained in CPR, there is a nursing element, and there is a plan in place in the event of an emergency. He offered to provide a copy of the policies and procedures to the planner. He informed the commission that they will have farm animals to the extent allowed by the zoning, as well as a garden. They have also contacted the sheriff's office and the sheriff is here today. If one of the kids did run, local authorities would be called. Mr. Armstrong also said this was not like a wilderness program; they may take the youth out for day trips, but they would not camp out.

The Chairman said the commission will need a copy of the policies and procedures. He asked the staff if the property had been inspected by the building official and was informed by the planner that it had not, but it would be when they applied for the business license, adding that the applicant may also need to meet ADA requirements, fire suppression, etc. The Chairman commented on having safety measures in place with the sheriff's office and search and rescue. He clarified that the applicant will just start with a total of eleven (11) staff and children and may later expand the septic to allow for fifteen (15). The applicant may decide later to build another facility on the lot next door to allow for fifteen (15) more children, but will apply for another conditional use permit at that time, depending on how business goes. The applicant said they had

no intentions to expand beyond that.

Chairman Stucki asked if the applicant had a contract to reimburse with the sheriff's office.

Kirk Smith, Washington County Sherriff, spoke on behalf of Mike Armstrong. He said he has been out to the site. In reply to the commissioner's previous comments, he said the Sherriff's office will be billing a profit making entity. He said he can testify to Mike's credibility and his love of kids. He said a lot of these programs are big money making operations, where they are dealing with kids whose parents just haven't learned to say no. These kids just don't have any discipline and this is an opportunity to give them some structure and teach the parents that it's okay to tell your kids no and give them some discipline. He believes this program will be a great success and Mike is committed to following the procedures and laws. He does not see any problems as far as the sheriff's department is concerned and the policies and procedures are very well written. In response to the commission, Mr. Smith stated Washington County has not had the problems with these types of facilities that Cedar City has had. He thinks we have done fine and this facility will have a different type of clientele; they will not have sex offenders, they are oppositional defiant kids. He does not see it as being a potential threat in the community or a risk and said the community may also take these kids under their wing.

Dave Everett asked the Deputy Attorney if the use of the terms "therapeutic boarding school" would require the county to readvertise and the Deputy Attorney said no. She explained that the use could fit under a couple of different categories, but it really is a therapeutic school.

Facts/findings:

- **Applicant intends to be licensed by the state**
- **In harmony with the character and intent of the zone and similar to other uses permitted in the zone**
- **Intended use of the property is consistent with the permitted agricultural uses of the zone**
- **The applicant has contacted the sheriffs office to address safety issues**

Motion was made by Commissioner Wilson to recommend approval of the Conditional Use Permit to operate "Brookhaven" a residential treatment center, subject to the applicant receiving their state license, obtaining their business license and all required inspections, providing a copy of the notice to neighbors to the County and understanding their expansion is subject to the health departments approval of the septic system, based on the facts and findings, for a period of one (1) year. Commissioner Ford seconded the motion, with all five (5) commissioners voting aye. *Approved 5 - 0*